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Attorneys for Defendants

CITY OF MENLO PARK and DAVE BERTINI

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO

MICHAEL ZELNY, an individual

Plaintiff,

vs.

GAVIN NEWSOM, et al.

Defendants.

Case No. 17-cv-07357-RS (TSH)

**[PROPOSED] ORDER REGARDING  
DEFENDANT CITY OF MENLO PARK'S  
MOTION FOR DISMISSAL OF PORTIONS  
OF THE PLAINTIFF'S SECOND  
AMENDED COMPLAINT (F.R.C.P.  
12(b)(1)), OR LEAVE TO FILE MOTION  
FOR RECONSIDERATION OF A  
PORTION OF THIS COURT'S ORDER  
DATED JULY 13, 2021 (LOCAL RULE 7-9)**

**Date: January 6, 2022**

**Time: 1:30 p.m.**

**Dept.: Courtroom 3, 17th Floor**

**Judge: Hon. Richard Seeborg**

**Trial Date: None**

The motion of Defendant City of Menlo Park for partial dismissal of Plaintiff's Second Amended Complaint (i.e. for dismissal of Plaintiff's facial challenge to the constitutional validity of the City of Menlo Park's Special Event Permit process) or for leave to file a motion for reconsideration came before the Court for hearing on January 6, 2022. The following appearances were made:

[PROPOSED] ORDER REGARDING DEFENDANT CITY OF MENLO PARK'S MOTION FOR DISMISSAL OF PORTIONS OF THE SECOND AMENDED COMPLAINT OR, IN THE ALTERNATIVE, MOTION FOR LEAVE TO FILE A MOTION FOR RECONSIDERATION; Case No. 17-cv-07357-RS (TSH)

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1 Robert J. Gundert, Esq. of Howard Rome Martin & Ridley LLP appeared on behalf of  
2 Defendant and moving party, City of Menlo Park;

3 David W. Affeld, Esq., Damion Robinson, Esq. and Brian R. England, Esq. of Affeld  
4 Grivakes LP appeared on behalf of Plaintiff and opposing party, Michael Zeleny.

5 Having reviewed the papers on each side and permitted the parties to present oral argument,  
6 the court rules as follows:

7  
8 Defendant City of Menlo Park's motion for dismissal of those portions of Plaintiff's Second  
9 Amended Complaint that challenge the constitutional validity of the City of Menlo Park's Special  
10 Event Permit process is **GRANTED**, since Plaintiff has not carried his burden of proving standing  
11 to assert such a challenge, consistent with Article III of the United States Constitution and the  
12 requirements of *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016).)

13 - or -

14 Defendant City of Menlo Park's motion for leave to file a motion for reconsideration is  
15 **GRANTED**. Such motion is set for hearing on \_\_\_\_\_. Moving papers shall  
16 be filed no later than \_\_\_\_\_.

17 Dated:

18  
19 \_\_\_\_\_  
20 Hon. Richard Seeborg  
21 United States District Court Judge  
22  
23  
24  
25  
26